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COMMITTEE AGAINST TORTURE

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SUMMARY RECORD OF THE PUBLIC PART* OF THE 182nd MEETING

Held at the Palais des Nations, Geneva,
on Friday, 22 April 1994, at 3.30 p.m.

Chairman: Mr. DIPANDA MOUELLE

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* The summary record of the closed part of the meeting appears as document CAT/C/SR.182/Add.1.

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The meeting was called to order at 3.30 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 7) (continued)

Second periodic report of Greece (continued) (CAT/C/20/Add.2)

1. At the invitation of the Chairman, Mr. Mathias, Mr. Daratzikis, Mr. Xonas and Mr. Papaconstantis (Greece) resumed their seats at the Committee table.

2. Mr. MATHIAS (Greece), replying to questions raised by the Committee, thanked the Rapporteur and Alternate Rapporteur for having stressed the positive aspects of Greece's efforts to combat torture and inhuman treatment. The answers given by his delegation would follow the original order of the questions only approximately, since some questions had been asked by several members.

3. Mr. XONAS (Greece), replying to questions specifically concerning police matters, said that the responsibilities of the police in safeguarding human rights formed a crucial part of their general task of protecting citizens from criminal behaviour of any kind, and the duties of the police in that area were clearly laid down by the Constitution and the relevant laws. In performing their duties, police took due account of the rights of suspects and detainees. Greece had been the birthplace of democracy and freedom, and the protection of the rights of all people, irrespective of race, nationality, language, or religious or political beliefs, was the primary duty of all State bodies. Furthermore, respect for basic human rights was deeply ingrained in the mentality of the Greek people.

4. As to specific action to prevent human rights abuses, the Greek police force had initiated programmes of education and training on the duties of the police in safeguarding human rights. Police were instructed in the main provisions of the relevant international instruments during normal training and on periodic courses. Disciplinary rules were extremely strict and provided for severe sanctions against officers found to be responsible for human rights abuses. Disciplinary action might be taken against officers even if they had been acquitted by a court for want of sufficient evidence. The Convention against Torture had been ratified by Act No. 1,782 of 1988 and, under the Constitution, took precedence over domestic law. A series of circulars issued by the Ministry of Public Order had clearly defined the standards of conduct expected of the police under the terms of national and international human rights instruments, including the Convention against Torture.

5. He wished to assure the Committee that the police were fully aware of their responsibility to maintain law and order and at the same time respect human rights. A few isolated abuses, involving a small number of officers, had undeniably taken place, but appropriate disciplinary action had been taken in all cases. New allegations by Amnesty International of violations of the Convention in Greece would be examined carefully by the competent authorities.

6. The Committee's comments had been studied with great interest by his delegation, and would be conveyed to the competent authorities. His

delegation regretted that it was unable to provide detailed answers to all the questions raised by the Committee because it had not been able to contact the relevant departments in the time available. He could not, for example, give the precise figures on the number of asylum-seekers requested by the Rapporteur, nor could any additional information be given regarding paragraph 15 of the report owing to the fact that the Ministry of National Defence was not represented in the delegation.

7. In general, strenuous efforts were being made to ensure that the police code of conduct was fully implemented, and a new police training programme on refugee issues had been initiated. The police performed their duties without discrimination on grounds of nationality, and allegations of abuse were promptly and thoroughly investigated. With regard to three particular cases in which police officers had been prosecuted, and which had been referred to by the Committee, he said that in two cases the officers concerned had been acquitted owing to lack of evidence, but the police had taken the Committee's comments on the cases into consideration. In the third case, one of the police officers concerned had been sentenced to 4 months and 15 days of imprisonment for verbal abuse and causing minor bodily harm, and another faced possible disciplinary action. He assured the Committee that the authorities were determined to prevent any recurrence of such violations.

8. Mr. MATHIAS (Greece), citing article 1, paragraph 2, of Act No. 1,500 of 1984, said that the definition of torture under Greek law included any deliberate act which caused intense pain, was dangerous to health or was likely to cause psychological harm, and any illegal use of sleep-inducing chemicals or other artificial means with the aim of undermining the will of the victim. Such acts were punishable by a minimum of three years' imprisonment. The definition of torture also included any maltreatment, violence, injury or serious violation of human dignity, such as the use of "lie-detectors", prolonged isolation or sexual abuse. The sole consideration in deciding whether or not an act constituted torture was whether its purpose was to undermine the victim's will; the perpetrator's motives were irrelevant from the legal standpoint. In the light of that fact, the 1984 Act was equal in scope to that of the Convention, which, like all other international instruments to which Greece was a party, formed an integral part of domestic law under article 28 of the Constitution and took precedence over any domestic legislation which might be contrary to it.

9. With regard to the rights of defendants, under articles 72 and 100 et seq. of the Code of Criminal Procedure persons were regarded as defendants if the prosecutor had initiated criminal proceedings against them, if they had been charged with a punishable offence, or if they were mentioned in any complaint as having committed a punishable offence. Under articles 100 et seq., defendants had the unrestricted right to communicate freely with their legal counsel from the outset of the proceedings, to be informed of all evidence against them and to be given copies of any relevant documents, to be granted sufficient time to prepare a defence, and to be given a clear written explanation by the investigating magistrate of all their procedural rights. The Code stated explicitly that, where the defendant was a non-Greek national, the explanation must be in a language understood by him or her.

10. As to the right of detainees to a medical examination, a doctor was called in at the detainee's request or if the police thought it necessary. There was no explicit provision for persons in custody to choose their own doctor. While that might be seen as a deficiency, all doctors were required to act impartially and that, in his view, constituted an important safeguard of detainees' rights.

11. Turning to the question of discrimination against non-Greek nationals in matters of human rights, he cited article 5 of the Constitution, copies of which were available to the Committee. In accordance with that article, all persons living under Greek jurisdiction were guaranteed the full range of social, economic and political rights, and guaranteed protection of their life, honour and freedom, irrespective of their national origin.

12. The arrest or imprisonment of any individual was subject to the strict constitutional safeguards provided for under article 6 of the Constitution. In particular, no arrest could be made without a substantiated judicial warrant, unless the accused had been caught in flagrante. Accused persons must be brought before an examining magistrate within 24 hours of arrest wherever possible.

13. As to refugees and asylum-seekers, Greece had ratified the Convention relating to the Status of Refugees, which, in keeping with what his delegation had already said, formed an integral part of Greek domestic law. There could therefore be no question of discrimination against foreign nationals. With regard to the question concerning allegations of maltreatment of Turkish nationals by police officers, he said that most of the allegations had in fact been made by Kurds and most of the complainants had been involved in drug trafficking. Any allegation of bias against Turkish nationals by the authorities should be viewed in the light of those facts.

14. With regard to the issue of civil liability vis-à-vis the victims of ill-treatment, he said that the State's liability in such cases was parallel but not concurrent; in other words, the State assumed responsibility for compensation to victims of ill-treatment only if the perpetrator was unable to compensate them.

15. He was not acquainted with the article in Eleftherotypia which had been referred to, but assured the Committee that the prosecutor would apply all necessary disciplinary and criminal action against those responsible, and that he would personally conduct his own inquiry into the matter.

16. On the question concerning medical tests of persons identified as HIV-positive, the law stated explicitly that only those actually suffering from AIDS were affected, and not those who merely carried the virus.

17. Turning to the question of proceedings against police officers, he said that they were conducted by the ordinary prosecutor before ordinary courts, and always in public; under article 93, paragraphs 2 and 3, of the Constitution, all hearings were held in public and were open to the media.

18. As to contributions to the Voluntary Fund for Victims of Torture, he promised to submit a report to the Ministry of Justice with a view to

reminding other member States of the European Union of the Fund's importance in humanitarian terms and to encourage them to increase their contributions.

19. He noted that under Greek law torture was punishable as a serious or ordinary offence. In the former case, the criminal courts had jurisdiction, while in the latter the correctional courts would try the case. Both parties in a case always had the right of appeal. The distinction between the two types of offence was clearly defined under the Code of Criminal Procedure. In accordance with the prohibition against discrimination under the Constitution, the same procedures were applied to foreigners and to Greek nationals. All confessions obtained under torture or ill-treatment were null and void and set aside by virtue of the Convention as an integral part of Greek law. Under articles 31, paragraph 2, 35, 43 and 246, paragraph 1, of the Code of Civil Procedure, the prosecutor of first instance and the appeal court prosecutor were competent to monitor any investigation and to undertake spot checks - including unannounced visits - as necessary, and prosecutors were in practice very active in doing so. Under article 35, the appeal court prosecutor carried out constant monitoring of all investigations.

20. With regard to capital punishment, he was pleased to draw the Committee's attention to the fact that it had been abolished without reservation under article 33 of the new Act No. 2,162 of 1 September 1993.

21. In conclusion, he thanked the Committee for its constructive questions and comments; he would be available to provide further information if required.

22. Mr. SORENSEN thanked the Greek delegation for its detailed replies to the Committee's questions. There was, however, one area in which he requested further clarification. Were there any cases in which a detained person's access to a lawyer might be delayed and was the lawyer allowed to be present when a detainee was being questioned?

23. Mr. MATHIAS (Greece) replied that any person charged with an offence within the meaning of article 72 of the Code of Criminal Procedure was entitled, under article 100 of that Code, to have immediate access to a lawyer and was not obliged to answer any question in the absence of such legal assistance. The lawyer could be present at all times during questioning but the detainee could not seek his or her advice prior to answering a question.

24. The CHAIRMAN asked whether that provision applied to questioning while the detainee was in police custody.

25. Mr. MATHIAS (Greece) said that the definition of a person charged with an offence under article 72 of the Code of Criminal Procedure was very wide and ensured that the right of access to a lawyer was guaranteed from the very outset.

26. Mr. SORENSEN asked for explicit confirmation that a person was entitled to remain silent and demand access to a lawyer as soon as he or she was apprehended by the police.

27. Mr. MATHIAS (Greece) confirmed that that was the case. In practice, however, people were sometimes unaware of their rights and police officers sometimes failed to observe the formalities. The solution in both cases lay in better education and training. During the period of suspension of democracy in Greece's recent history, there had certainly been cases of derogation from that right. The authorities were seeking to eliminate all traces of the injustices inherited from that period and appreciated the Committee's assistance in doing so.

The public meeting was suspended at 4.20 p.m. and resumed at 4.45 p.m.

28. Mr. EL IBRASHI (Country Rapporteur) read out the following conclusions and recommendations on the report of Greece which had been approved in closed session:

"1. The Committee against Torture considered the second periodic report of Greece (CAT/C/20/Add.2) at its 181st and 182nd meetings held on 22 April 1994 (CAT/C/SR.181, 182 and 182/Add.1) and adopted the following conclusions and recommendations.

A. Introduction

2. The Committee thanks the State party for its report and for its continuing cooperation in the constructive dialogue with the Committee. It takes note of the information submitted in the report as well as the oral presentation of the delegation of Greece.

3. Greece has complied with its obligation to submit an initial report and a second periodic report under article 19 of the Convention.

4. The Committee wishes to express its appreciation to Greece for its obvious willingness to deal with the various issues raised by the Committee.

B. Positive aspects

5. The Committee feels that Greece has a very advanced legislative and administrative scheme for the implementation of human rights values contained in the international instruments.

6. The Committee also regards as very positive the fact that the Government of Greece has continued to take practical measures to promote and protect human rights and in particular to bring about the total and effective eradication of torture and other similar treatment.

7. It is also encouraging that judicial and administrative proceedings have been undertaken to investigate violations of human rights, especially torture.

C. Subject of concern

8. However, the Committee is concerned at the practice of severe ill-treatment which seems to be an ongoing problem occurring in some police stations.

D. Recommendations

9. The Committee recommends that the advanced legislation in Greece for preventing the ill-treatment of accused persons be fully applied in practice.

10. The Committee also recommends that more attention be given to adequate training on the prohibition of torture to medical personnel.

11. In addition, the Committee expects to receive answers to the various questions addressed to the Greek delegation, especially those concerning refugees."

29. Mr. MATHIAS (Greece) thanked the Committee for its conclusions and recommendations. He would transmit them to the Greek authorities, together with a full report on the meeting, and would do his utmost to ensure that action to combat torture was continued and intensified.

30. The CHAIRMAN thanked the Greek delegation for its wholehearted cooperation and took note of its undertakings with regard to enhanced compliance with the Convention.

31. The delegation of Greece withdrew.

The public meeting ended at 4.55 p.m.